

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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ROBERT MILLER,

Plaintiff,

VS.

4INTERNET, LLC AND
JOHN DOES 1-10,

Defendants.

2:18-cv-02097-JAD-VCF

ORDER

MOTION TO COMPEL COMPLIANCE WITH
POST JUDGMENT SUBPOENA TO HIGBEE
& ASSOCIATES (ECF No. 147)

Defendant 4Internet, LLC filed a motion to compel compliance with post judgment subpoena to Higbee & Associates. ECF No. 147. I deny the motion for lack of jurisdiction.

I. Background

On December 20, 2022, the Court entered judgment in the amount of \$99,604.42 in favor of Defendant 4Internet, LLC. ECF No. 141. Defendant allegedly served, via email, a subpoena on the law firm of Higbee & Associates seeking documents relating to settlements, demands, and funds received related to plaintiff. ECF No. 147. 4Internet contends that Higbee is the agent for service of process for H&A, but that Higbee is not present for service in Las Vegas and H&A fails to maintain a registered office in Nevada. *Id.* Plaintiff argues that service was not proper—but that even if it were proper—the Court lacks jurisdiction to enforce it. ECF No. 148.

1 **II. Analysis**

2 Rule 45 requires any motions or applications related to a subpoena be brought in the district
 3 where compliance is required.¹ see also Adv. Comm. Notes to 2013 Amendment, Rule 45 ("Under
 4 Rules 45(d)(2)(B), 45(d)(3), and 45(e)(2)(B), subpoena-related motions and applications are to be made
 5 to the court where compliance is required under Rule 45(c)."). "Rule 45 makes clear that the place of
 6 compliance is tethered to the location of the subpoenaed person.". *Agincourt Gaming, LLC v. Zynga, Inc.*, No. 2:14-cv-0708-RFB-NJK, 2014 U.S. Dist. LEXIS 114348, at 9 (D. Nev. Aug. 15, 2014), citing
 7 to Fed. R. Civ. P., Rule 45(c)(2)(A) (the place of compliance must be "within 100 miles of where the
 8 person resides, is employed, or regularly transacts business in person"). "The place of compliance is a
 9 jurisdictional issue." *4R4 Sons, LLC v. TRU G. Wilhelm, Inc.*, No. 2:21-cv-01081-GMN-NJK, 2022
 10 U.S. Dist. LEXIS 130260, at 12 (D. Nev. July 22, 2022), citing to *Agincourt Gaming, LLC v. Zynga, Inc.*, 2014 U.S. Dist. LEXIS 114348, 2014 WL 4079555, at 3 (D. Nev. Aug. 15, 2014).

13 Attorney Higbee, an officer of the court, declares under penalty of perjury that H&A's corporate
 14 headquarters is located at 1504 Brookhollow Drive, Suite #112, Santa Ana, California. ECF No. 148. He
 15 also swears that California is the location that all of H&A's corporate records are maintained. *Id.* The
 16 subpoena directs H&A to produce certain documents related to Miller and states the place of compliance
 17 as 9900 Covington Cross Dr., Suite 210-B, Las Vegas, NV 89144. ECF No. 147-1.

19 Defendant filed its Rule 45 motion in the wrong court: this Court lacks jurisdiction over H&A's
 20 corporate headquarters at 1504 Brookhollow Drive, Suite #112, Santa Ana, California. Defendant's
 21 motion contends that Higbee is the agent for service of process for H&A, but admits that Higbee is not
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24 ¹ Rule 45(d)(1) (As to avoiding undue burden or expense on the party subject to the subpoena, "[t]he court for the
 25 district where compliance is required must enforce this duty"); (d)(2)(B)(i) (As to an order compelling production
 "the serving party may move the court for the district where compliance is required").

1 present for service in Las Vegas and H&A fails to maintain a registered office in Nevada. ECF No. 147.
2 While Higbee's alleged failure here may have other legal consequences, defendant has not shown that
3 this Court is the proper venue to decide issues related to this subpoena. I find that this Court does not
4 have jurisdiction to decide the merits of any issues related to the subpoena. See, e.g., *Taddeo v. Am.*
5 *Invsco Corp.*, 2016 U.S. Dist. LEXIS 17697, at 3 (D. Nev. Feb. 11, 2016) (citations omitted).
6 Compliance is required in California, not Nevada. I deny the motion for lack of jurisdiction.

7 ACCORDINGLY,

8 I ORDER that the defendant 4Internet, LLC's motion to compel compliance with post judgment
9 subpoena to Higbee & Associates (ECF No. 147) is DENIED.

10 IT IS SO ORDERED.

11 DATED this 31st day of May 2023.


12 CAM FERENBACH
13 UNITED STATES MAGISTRATE JUDGE
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